297

[TRANSLATIONS.]

SUPREME COURT OF THE UNITED STATES.

DECEMBER TERM, 1852—No. 30.

UNITED STATES,

vs.

HEIRS OF RILLIEUX.

Gideon, printer.

[TRANSLATIONS.]

SUPREME COURT OF THE UNITED STATES,

DECEMBER TERM, 1852—No. 30.

UNITED STATES,

vs.

HEIRS OF RILLIEUX.

Page 6.

Concession of Land to Mr. Deruisseau, &c.

Louis de Kerlerec, knight of the royal and military order of St. Louis, captain in the navy of the King, and governor of the province of Louisiana, and Dennis Nicholas Foucault, acting as intendant commissary in the said province. On the petition which has been made to us by Mr. Deruisseau, an inhabitant of this colony, to concede to him an island of about two leagues front and a league and a half in depth, situated on the north of Lake Pontchartrain and of the place called the Coquilles, and extending to the end of the Rigolets, in order to continue the establishment which he formed there by permission given to him verbally by us, we, taking into consideration the representation of the said Mr. Deruisseaux, and in virtue of the power with which it has pleased his Majesty to invest us, have granted, and do by these presents grant, to the said Mr. De Ruisseaux the said island above mentioned, to him, his heirs or assigns, to enjoy and dispose thereof, fully and peaceably, in full property and usufruct, as of an estate belonging to him, on condition that he shall continue the said establishment; if not, and in default of doing so within a year from this day, it shall be reunited to the domain of the King, who may dispose of it as if the present grant had not been made, and on condition of paying the seignorage duties, if any should hereafter be established in the said province of Louisiana. We reserve, also, for his Majesty all the wood or timber which may be necessary for the construction of forts, magazines, and other works which he has ordered,

or may order hereafter, or for the refitting and careening of vessels, at such times and in such quantities as may be necessary, and likewise the land necessary for the royal roads and fortifications.

Given at New Orleans, under the seals of our arms, and countersigned by our secretaries, the second of June, one thousand seven hundred and sixty-two.

Signed, KERLEREC & FOUCAULT.
Countersigned, SOUBIE & DUVERGE.

Page 12.

Doc. A.—*King of Spain's commission to Vincent Rieux.*

THE KING.

Whereas, in consideration of the merit and services of Don Vincent Rieu, commander of the cruisers in the province of Louisiana, and his having been present at the important conquest of the English forts and establishments on the river Mississippi, I have determined to confer on him the grade of lieutenant of infantry in my royal armies, with half pay. Therefore I command the captains general, governors of troops, and other principal chiefs and subordinate officers and soldiers of my armies, to consider and hold him as such lieutenant of infantry, and to observe and cause to be observed, with respect to him, the honors, respect, privileges, and exemptions which belong to him by reason of said rank, and which are to be observed fully and completely, for such is my will; and that this appointment be entered and registered in the principal accomptant's office of the royal department of state to which it appertains.

Given at the seventeenth day of February, in the year seventeen hundred and eighty. I, the King.

Signed, JOSEPH GALVEZ.

Page 13.

His Majesty grants the rank of lieutenant of infantry of the army, with half pay, to Don Vincent Rieux, commander of the cruisers in Louisiana.

Let what his Majesty commands in this royal despatch be obeyed, and let it be registered in the general accomptant's office of the army and province of Louisiana.

Havana, August 3d, 1780.

Signed, I'DO DE GALVEZ.

New Orleans, 9th December, 1780.

Let the foregoing royal despatch be registered in the general accomptant's office of this army.

Signed, MARTIN NAVARRO.

The foregoing royal despatch was registered in the general accomptant's office of this army and province.

New Orleans, December 9th, 1780.

Signed, BERNARDO DE FERO.

Doc. B.—*Letter from Bernardo de Galvez to Mr. Vincent Rieux, September*, 1779.

It is indispensable that the forty-six prisoners, who have already arrived at the river with you, should come to this fort, together with such of those who were left on the road as may also have arrived. I therefore send two canoes for the purpose of conveying those who are too fatigued to travel; and to prevent any one from being left behind, I order the commandant to send in search of them; but if it should be necessary to wait too long, then they are to be left with the commandant, in order that they may not be scattered, and that he may take them on board the batteaux, with those whom you may bring, and I shall send hence to the city.

Signed, BERNARDO DE GALVEZ.

I desire also to thank you personally, in the name of the King, for the zeal with which you serve him.

Fort Butte de Manchac, *Sept.* 1, 1779.

Mr. Vincent Rieu.

Doc. C.—*Letter from Galvez to Rieu, Aug.* 27, 1779.

Considering, sir, that Mr. Brioner is an officer of the navy, commanding a cruiser of the King in the lake where you are commissioned, you will be under his orders in all that may be necessary to be done under the instructions which I have given him. But I do not doubt, for a single instant, that your zeal for the service of the King, your patriotism, and your honor, will cause you to co-operate in harmony, and with a mutual good understanding, in order to effect the object for which you have been despatched. Finally, I flatter myself that, on this occasion, you will give me proofs of these, and also of the probity, enterprise, courage, and intrepidity which you possess, and upon which I reckon much.

Signed, B'DO DE GALVEZ.

New Orleans, *Aug.* 27, 1779.

Mr. Rieu.

Page 15.

Petition of Mr. Rillieux to Mr. Rochemont, Jan. 16, 1754.

To Monsieur de Rochemone, counsellor of the King in his councils, commissary general of marine, intendant commissary of Louisiana.

Sir: Francis Rillieux, an old inhabitant of this colony, most hum-

bly petitions and represents, that about twenty-five years ago he established a cattle farm on the other side of Lake Pontchartrain, at the place called Bonfouca; that Mr. Young having determined to engage in the manufacture of tar and pitch, selected that place as abounding in the wood necessary for his purpose; and having asked permission of your petitioner to take the milk of some cows to aid in subsisting his people, your petitioner not only granted his request, but also offered him the use of some bullocks to aid in transporting his wood; but Mr. Young, instead of behaving to your petitioner in a grateful spirit, employed some Tehactas to hunt wild cattle, although it is a matter of public notoriety that there are no cattle of that description within a hundred leagues of the place, and, instead of engaging in the pretended hunt, he caused twenty-nine head of your petitioner's cattle to be taken; that your petitioner's son being on the spot recognised the cattle as his father's, which he told Mr. Young; who answered, that he had only to give back to him the merchandise which he had given to the savages, and he would have the hunt stopped; a proposition sufficiently extraordinary and illicit on his part.

Be pleased, sir, to read the annexed certificate in relation to the cattle of your petitioner, given by the interpreter of Mobile in 1775, who has a perfect knowledge of all the hunts which Mr. Young caused to be made.

Wherefore your petitioner prays, sir, that, considering this, you will permit him to cause a citation to be served on Mr. Young, to appear on the first day of the audience of the council, for the purpose of being condemned to pay to the petitioner the twenty-nine head of cattle in question, besides the increase which might have accrued, in damages, expenses, and interest, and then justice.

New Orleans, June 16, 1759.

RILLIEUX.

Permission given to cite on the first day of the audience of the council, at New Orleans, the day and year above written.

ROCHEMORE.

I certify that, during seventy years that I have been in this province, I have been perfectly well acquainted with Mr. Rillieux, the father, and his family, who was an inhabitant of the other side of Lake Pontchartrain, on the bayou commonly called Bonfoucat, to which place I have been many times, and have never seen there any inhabitant but the said Rillieux and Mr. St. Martin; that I have known it as public and notorious, that the said Rillieux, the father, possessed the greater part of both banks of the said bayou Bonfoucat, by virtue of former titles of concession from Mr. De Vaudreuil, then governor of the said province; that is to say, the right bank, from the outer entrance to the head of said bayou, and, on the left bank, from the boundary of the said St. Martin; also the head of said bayou; and besides, on Pearl river twenty arpents, between the habitations of Mr. Favre and Mr.

De la Gautrais. And I also certify, that after the death of Mr Rillieux, the father, his son Don Vincent remained always on the said lands with his mother, who resigned to her said son Vincent all the said lands of Bonfoucat and claims, at the time when she left the other side of the lake to establish herself, as she did, ;
and that I have seen all the titles of concession of said lands from Mr. De Vaudreuil, and from Governor Johnstone, who was Governor of Pensacola, and the sale which Madam Rillieux executed to her son Don Vincent, at Bonfoucat, before witnesses, of all the said lands, which they have always enjoyed in quiet and peaceable possession, as having been the first and only inhabitants provided with legal titles to the said place.

In faith whereof I give the present to serve as may be proper, protesting that its contents are the pure truth, which I attest.

New Orleans, 10th of April, 1807.

N. FORSTALL.

Letter written by Madame widow Rillieux, in the year 1765, *to Governor Johnstone, in Pensacola, No.* 2.

To his excellency Mr. Johnstone, Governor for his Britannic Majesty, at Pensacola; to his excellency Mr. Geo. Johnstone, esq., Governor of West Florida, &c., &c., at Mobile.

Sir: Mr. Campbell, captain in the 34th regiment of infantry, having communicated to me your intentions respecting the proceedings and submissions necessary on my part, in order that I may remain in the peaceable enjoyment and possession of my property, situated in that part of this province which has been ceded to the King of Great Britain, I take the liberty of writing to your excellency, to pray you to be pleased to accept my present letter as an authentic instrument of all oaths of fidelity and submission in such case required. I have the more willingly concluded to remain under the government of his Britannic Majesty, as I hope from your excellency all the justice and equity of which you have hitherto given such strong proofs. If I were less advanced in years, and less burdened with a family, I should have waited on your excellency to tender these submissions verbally; but Mr. Campbell having assured me that the present would suffice, I venture to request that you will be pleased to give me a confirmation of it.

I have the honor to annex hereto a certificate from Messieurs, the commandant and intendant commissary of this province, as a title, which proves the peaceable enjoyment and possession of my said property, believing it to be necessary; my widowed state, and my numerous family, give me ground to hope from your goodness all the protection of which I have need, and for which I shall always feel the deepest gratitude.

I am, most respectfully, your excellency's most humble and most obedient servant.

New Orleans, March 18, 1765.

WIDOW RILLIEUX.

300

I certify that, in the year 1760, Mr. Lavalle and I being on the other side of Lake Pontchartrain, on bayou Bonfouca, met with Mr. Francis Rieux, and asked him how many inhabitants there were in those parts; and he answered us that there was no other inhabitant than himself and his family, and after his death his brother, Don Vincent Rieux, until he died.

New Orleans, February 24, 1804.

ENRIQUE MENTZINGEN.

I, the undersigned, certify that, for seventeen years past, I am the first person except the late Mr. Vincent Rillieux who has occupied the lands of Bonfouca.

Done at bayou La Combe, October 4th, 1803.

DUCRE.

I certify that, for more than fifty years I have had full knowledge that Mr. Rillieux, the father, has always been the continuous possessor of all the land on the right bank of Bonfouca, and upon the left bank from the boundary St. Martin to the waters of the bayou, upon both banks, the grant having been made to him by Mr. De Vaudreuil, the governor of this capital; and that after the death of Mr. Rillieux, Mr. Vincent Rillieux, his son, always remained the sole possessor, there never having been any other inhabitants than his father and him; in faith of which I give the certificate to serve as need may be, protesting that it is the pure truth.

New Orleans, April 10th, 1807.

PHILIP SAUCIE, *Sr. Dic.*

I, the undersigned, certify that for twenty-six years past I have been an inhabitant of bayou La Liberté, and that I found the late Mr. Vincent Rillieux, who had formed his establishments on both banks of bayou Bonfouca, without being able to say how long he had occupied them previously. In faith of which I have given the present certificate to serve where need may be.

Done at bayou La Liberté, May 8, 1813.

FS. DUBUISSON.

I, Baptiste Niques, in the presence of witnesses, certify that for twenty-five years that I have lived with Mr. Vincent Rillieux, at his habitation on bayou Bonfouca, I have known no other inhabitant than him on the said bayou, on the right bank of the said bayou, as far as the river Pearl, and the left bank from a place called St. Martin * * * * * * * * Also a tract of land which he has on the bank of Pearl river, situated between Mr. Favre and Mr. Lacotre. In faith of which I give the present to serve him as need may be.

Done in good faith at bayou Bonfouca, May 11th, 1813; not knowing how to write I make the usual mark.

BAPTISTE ⋈ NEQUES.

Witness—

BARTHELEMY MARTIN.

I certify that I traversed the whole extent of the land inhabited by Mr. Rillieux, and saw no wild or stray cattle that did not belong to Mr. Rillieux. In faith of which I have affixed my usual mark to the present to serve and avail as may be proper ; at New Orleans, January 23d, 1759, not knowing how to sign, has made his usual mark.

Usual mark of T. REINE ⋈

Witness—SONGY.

I, the undersigned, certify that I spent two years, that is to say, the years 1747 and 1748, on the land inhabited by Mr. Rillieux, and saw no cattle on the said land except those belonging to Mr. Rillieux, although I went over the said land and environs repeatedly. In faith of which I have made the usual mark to the present, to serve and avail as may be proper ; at New Orleans, January 26, 1759.

Usual mark of BUILLY ⋈

Witnesses—CAULKI,
FORSTALL.

I certify that Mr. Vincent Rillieux was established at Bonfouca, that I was several times at his residence, and that he possesses another piece of land on Pearl river, adjoining on one side to Mr. Favre, and on the other to Mr. Lautray.

New Orleans, February 16th, 1804.

BAPTISTE BOUSSERE.

I, the undersigned, an old inhabitant of the other side of the lake, declare that Mr. Francis Rillieux, the father, was the first inhabitant on bayou Bonfouca, many years since; and, according to the best of my recollection, he must have been there before the year 1751; and that he was always there until his death; and afterwards his son, who has always retained it up to the present time; in faith of which I give the present certificate at New Orleans, October 10, 1807.

TENNILLON.

I certify that, to my full knowledge, Mons. Vincent Rillieux, the father, has always been possessor of the land of Bonfouca, situated on the other side of the lake; and that, after him, Mr. Vincent Rillieux, his son, has always enjoyed the said land without ever having been troubled in his possession by any one. I give the present certificate to serve as need may be, protesting that it is the pure truth; at New Orleans, March 8, 1808.

THARION.

I certify that, for about thirty years that I have frequented the other side of the lake, and for ten years that I have resided, I have never known any other proprietor of the lands on bayou Bonfouca than Mr. Vincent Rillieu and Mr. St. Martin, and heard the oldest inhabitant of the other bayous say that the ancestors of Mr. Rillieux had always

301

been the proprietors of the said land; in faith of which I give the present certificate, to serve as need may be. New Orleans, January 1, 1807.

DANQUEMENIL DE MORANT.

Page 20.

Doc. E.—*Petition of the widow Rillieux to the Sovereign Council, &c., January* 23, 1759.

No. 1.—L. M. R.

To my Lord of the Superior Council of the province of Louisiana.

The widow Rillieux, inhabitant, plaintiff, on the one part, against Mr. Young, trader, defendant, on the other part, most humbly petitions, representing:

That more than twenty-five years ago her deceased husband established a cattle farm on the other side of Lake Pontchartrain, at the place called Bonfouca; that Mr. Young asked permission of her deceased husband to construct on his land two furnaces for making tar, which the deceased Rillieux granted him, so that from that time he always staid there; that, moreover, the defendant asked Mr. Rillieux's consent to milk six cows, in order to have the refreshment of the milk, which he was not only permitted to do, but also to make use of the cattle for transporting the wood for his tar furnaces.

That, far from showing gratitude to the said deceased, Mr. Rillieux, for all his attentions, Mr. Young caused the Tehactas to kill the greatest part of his herds, so that, at the end of the chase, which lasted all winter, the herd was reduced to twelve breeding cows and some bullocks, although, before Mr. Young came to establish himself on the land of the petitioner, it was composed of a hundred and fifty head of cattle, from which it will appear that during one winter Mr. Young has entirely ruined the petitioner and all her family. That it is useless for Mr. Young to contend that the cattle which he caused to be killed were wild cattle, as all the certificates hereto annexed, as well as that of Mr. Roussere, interpreter at Mobile, prove the contrary. Besides, even if it were so, what right could Mr. Young have to cause cattle to be killed which did not belong to him; had he put any on the land, he who had just arrived from France, when he asked permission of the deceased, Mr. Rillieux, to construct two tar furnaces? So that, even had wild cattle been found on the land inhabited by the late Rillieux, as he was the first and only one who had brought any on that land, which is a kind of peninsula, as may be seen by the map of all the environs of Lake Pontchartrain, Mr. Young could claim no rights there. By this map it is easy to see that there was no neighbor nearer than Mr. Brosset, distant more than fifteen leagues from the deceased, Mr. Rillieux; and, moreover, separated by two large bayoux, which may be called rivers, inasmuch as one has a course of a hundred leagues from the Tehactas to Lake Pontchartrain, where it discharges itself, so that

there could be no communication for cattle; which is further proved by the letter written by Mr. Brosset to Mr. Cheval; thus, although Mr. Cheval has given a certificate to the defendant, to the effect that he had given him permission to kill the cattle of the said Mr. Brosset, as these cattle could not have been found on the land of the said deceased, Mr. Rillieux, for the reasons which have been set forth, the certificate of Mr. Cheval, of which the defendant endeavors to avail himself, cannot exempt him from payment for the cattle which he caused to be killed on the land and at the door of the petitioner, as the declaration of Le Sage, chief of the Beloxi nation, and one of his people, which was made in the presence of Messrs. Maurice and Tarascon, on the refusal of Mr. Trudeau to receive it, shows that the cattle, which were killed, belonged to the deceased Mr. Rillieux. It is also to be noted that when Messrs. Brosset and Cheval withdrew from their habitation, there was a general hunt of all the wild cattle, so that none of them were left, which is proved by the certificates of Messrs. Tarascon, Bailly, Reine, and Barthelemy. That, finally, the certificate of Mr. Marette shows by the reproaches made by the deceased Mr. Lacombe, some days before his death, to Mr. Young, with whom he was associated, that the defendant did a considerable wrong to Mr. Rillieux in causing his cattle to be killed every day, and is a proof of the bad faith of the defendant. As the plaintiff believes that she has sufficiently proved the great wrong, or, more properly speaking, the total ruin which Mr. Young caused to her and all her family, by the destruction of her herd, she hopes, from the ordinary equity of my lords, that in conformity with the justice which has already been rendered to her in a similar matter by Messieurs de Vaudreuil and Mickel against Mr. Trudeau, and the individual named Boirnier, who were condemned to pay without delay for the cattle which they caused to be killed under the pretence that they were wild cattle, and which were proved to belong to the deceased Mr. Rillieux.

That, finally, as it often happens that the pleas in defence are not duly notified, which deprives the plaintiff of the means of answering them, the petitioner hopes from the equity of the court that it will be pleased to order the said Mr. Young to communicate his defence within the 24 hours before the council.

That as the ordinance prohibits the use of the testimony of individuals who are in the pay of the persons for whom they testify, the testimony given by the mulatto Joseph, who is in the employment of Mr. Young, and even a slave, can have no force. For all these reasons the petitioner prays that, in consideration hereof, your lordships will be pleased to promise her that the said Mr. Young shall be cited before you on the first day of ordinary audience, to be condemned to pay to the petitioner such sum as it may please the court to award, considering the great number of cattle which he has caused to be killed. Moreover, as the defendant asked permission of the deceased Mr. Rillieux to construct only two furnaces, and has greatly exceeded that number, that he be condemned to quit the premises immediately, par-

302.

ticularly as, if he remains any longer, the small number of cattle which the petitioner has remaining may share the same fate as the others; and also that Mr. Young be condemned in costs, damages, and interest, requiring, moreover, the opinions of the King's attorney general for the public vindication, and that justice may be done.

New Orleans, January 23d, 1759.

The Widow RILLIEUX.

Permission given to cite on the first day of the audience of the council. New Orleans, the year and day, &c.

Page 22.

I certify that, being at the habitation of Mr. Rillieux, I saw at different times a number of cattle brought to the door of said habitation, killed by Indians employed by Mr. Young, and at a very short distance from the house. I certify, also, that Mr. Young has in my presence used all the cattle of the said Mr. Rillieux, the cows for milking, and the bullocks to transport the wood for his tar furnaces.

In faith whereof I have signed the present, to serve and avail as may be proper, at New Orleans, January 23, 1759.

(Signed) BARTHELEMY.

I certify that I heard the late Lacombe, who is dead, say at my house to Mr. Young that he had done him wrong in the partnership which he had with Mr. Young in the tar business, and that he was not content with wronging him, but also wronged Mr. Rillieux in causing his cattle to be killed every day. Mr. Young answered that he was wandering; the late Lacombe replied, no.

Done at New Orleans, January 23, 1759.

(Signed) MARETTE.